

ORDINANCE NO. 2018-02

**AN ORDINANCE TO UPDATE AND MODERNIZE THE TOWN OF LODI
EROSION CONTROL ORDINANCE**

The Town Board of the Town of Lodi, Columbia County, Wisconsin do hereby ordain as follows:

1. Section 11.11(a) of the Lodi Municipal Code is hereby repealed and recreated to read as follows:

“(a) **Authority.**

- (1) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the Lodi Town Board.
- (2) The Town of Lodi hereby designates the Town engineer to administer and enforce the provisions of this ordinance.
- (3) The requirements of this ordinance do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:
 - (A) Wisconsin Department of Natural Resources administrative rules, permits or approvals, including those authorized under Wis. Stats. §§ 281.16 and 283.33.
 - (B) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under Wis. Admin. Code NR 151.004.”

2. Section 11.11(c) of the Lodi Municipal Code is hereby repealed and recreated to read as follows:

“(c) **Purpose.**

It is the purpose of this ordinance to maintain safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion and sediment discharge; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to waters of the state in the Town of Lodi.”

3. Section 11.11(d)(1) is hereby renumbered as Section 11.11(d)(2) and Section 11.11(d)(1) of the Lodi Municipal Code is hereby created to read as follows:

- (1) **Administering Authority.** A governmental employee, the Town of Lodi's professional engineer designated by the Town Board or any other persons who are supervised by the Engineer, empowered under Wis. Stats. § 60.627 shall administer this ordinance.

4. Section 11.01(d)(3) of the Lodi Municipal Code is hereby repealed and recreated to read as follows:

“(3) **Agricultural Facilities and Practices.** Has the meaning in Wis. Stats. §281.16(1).”

5. Section 11.11(d)(4) of the Lodi Municipal Code is hereby repealed and recreated to read as follows:

“(4) **Best Management Practices or BMP.** Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.”

6. Sections 11.11(d)(5) and (6) of the Lodi Municipal Code are hereby repealed and recreated to read as follows:

“(5) **Cease and Desist Order.** A court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the administering authority.

(6) **Construction Site.** An area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A long-range planning document that describes separate construction projects, such as a 20-year transportation improvement plan, is not a common plan of development.”

7. Section 11.11(d)(7), (8) and (9) of the Lodi Municipal Code are hereby renumbered as Section 11.11(d)(15), (16) and (17).

8. Section 11.11(d)(7) of the Lodi Municipal Code is hereby created to read as follows:

“(7) **Design Storm.** A hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.”

9. Section 11.11(d) (8) and (9) are hereby created to read as follows:

- “(8) **Erosion.** The process by which the land’s surface is worn away by the action of wind, water, ice or gravity.
- (9) **Erosion and Sediment Control Plan.** A comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.”
10. Section 11.11(d)(11) through (14) of the Lodi Municipal Code are hereby repealed.
11. Section 11.11(d)(11) of the Lodi Municipal Code is hereby created to read as follows:
- “(11) **Final Stabilization.** Completion of all land disturbing construction activities at the construction site and a uniform perennial vegetative cover has been established with a density of at least 70 percent of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.”
12. Section 11.11(d)(12) of the Lodi Municipal Code is hereby created as follows:
- “(12) **Land Disturbing Construction Activity.** Any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.”
13. Section 11.11(d)(13) and (14) of the Lodi Municipal Code are hereby created to read as follows:
- “(13) **Landowner.** Any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.”
- (14) **Governing Body.** The Lodi Town Board of Supervisors.”
14. Section 11.11(d)(16) of the Lodi Municipal Code is hereby repealed and recreated to read as follows:
- “(16) **Performance Standard.** A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.”
15. Section 11.11(d)(21) of the Lodi Municipal Code is hereby created to read as follows:

- “(21) **Pollutant**. has the meaning given in Wis. Stats. §283.01.”
16. Section 11.11(d)(21) and (22) of the Lodi Municipal Code are hereby renumbered Section 11.11(d)(23) and (24).
17. Section 11.11(d)(21) of the Lodi Municipal Code is hereby created to read as follows:
“(21) **Pollution**. has the meaning given in Wis. Stats. §281.01.”
18. Section 11.11(d)(22) of the Lodi Municipal Code is hereby created to read as follows:
“(22) **Responsible Party**. The landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement.”
19. Section 11.11(d)(24) of the Lodi Municipal Code is hereby repealed and recreated to read as follows:
“(24) **Runoff**. Storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.”
20. Section 11.11(d)(27) of the Lodi Municipal Code is hereby repealed and recreated as follows:
“(27) **Site**. The bounded area described in the Erosion Control or Storm Water Management Plan.”
21. Section 11.11(d)(29) through (34) of the Lodi Municipal Code are hereby repealed.
22. Section 11.11(d)(29) of the Lodi Municipal Code is hereby created to read as follows:
“(29) **Waters of the State**. All lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state.”
23. Sections 11.11(e) through (h) of the Lodi Municipal Code are hereby repealed.
24. Section 11.11(e) of the Lodi Municipal Code is hereby created to read as follows:
“(e) **Applicability of Maximum Extent Practicable**.

Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the Town satisfaction that a performance

standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.”

25. Section 11.11(f) of the Lodi Municipal Code is hereby created to read as follows:

“(f) **Technical Standards.** All BMPs required for compliance with this ordinance shall meet design criteria, standards and specifications based on any of the following:

- (1) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V Wis. Admin. Code Chapter NR 151.
- (2) Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE)) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.
- (3) Technical standards and methods approved by the Town.”

26. Section 11.11(g) of the Lodi Municipal Code is hereby created to read as follows:

“(g) **Performance Standards for All Construction Sites.**

- (1) **General Requirement.** Any landowner, land occupier or land user who undertakes, begins, commences or performs land disturbing activities, or who permits another person to do the same, on land subject to this section, shall be subject to the provisions of this Ordinance.
- (2) **Erosion And Sediment Control Practices.** Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:
 - (A) The deposition of soil from being tracked onto streets by vehicles.
 - (B) The discharge of sediment from disturbed areas into on-site storm water inlets.

- (C) The discharge of sediment from disturbed areas into adjacent waters of the state.
 - (D) The discharge of sediment from drainage ways that flow off the site.
 - (E) The discharge of sediment by dewatering activities.
 - (F) The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
 - (G) The discharge of sediment from erosive flows at outlets and in downstream channels.
 - (H) The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.
 - (I) The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.
- (3) **Location.** The BMPs shall be located so that treatment occurs before runoff enters waters of the state.
- (4) **The BMPs Used to Comply with this Section Shall be Implemented As Follows:**
- (A) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
 - (B) Erosion and sediment control practices shall be maintained until final stabilization.
 - (C) Final stabilization activities shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
 - (D) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.

- (E) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

27. Section 11.11(h) of the Lodi Municipal Code is hereby created to read as follows:

“(h) **Construction Sites Subject to Erosion and Sediment Control Permitting.**

- (1) **General Requirement.** Any landowner, land occupier or land user who undertakes, begins, commences or performs land disturbing activities, or who permits another person to do the same on land subject to this section, shall be subject to the provisions of this Ordinance. The Responsible Party shall implement the erosion control plan developed in accordance with this section.
- (2) **Applicability.** Land disturbing activities on public or private lands shall be subject to the erosion and settlement control provisions of this section if:
 - (A) An area of 5,000 square feet or greater will be disturbed by excavation, grading, filling or other earth-moving activities, resulting in the loss or removal of protective ground cover or vegetation; or
 - (B) Excavation, fill, or any combination thereof, will exceed 1,000 cubic yards; or
 - (C) Any public street, road or highway, whether federal, state or local, is to be constructed, enlarged, relocated or substantially reconstructed; or
 - (D) Any water courses to be changed, enlarged or materials will be removed from stream or lake beds; or
 - (E) Any proposed land use by a unit of government or by public or private utilities in which underground conduits, cables, piping, wiring, water lines, sanitary sewers or storm sewers will be laid, repaired, replaced or enlarged, if such use involves more than 300 linear feet of trenching or land disturbance; or
 - (F) Any subdivision of land which requires approval of a plat or certified survey;
 - (G) Any land disturbing activity on slopes greater than 15%; or

- (H) Any land disturbing activity on unstable soils as determined by the Town Engineer.
- (3) **Erosion And Sediment Control Plan.** A written site-specific erosion and sediment control plan shall be developed in accordance with Section 11.01(j) of this Ordinance and implemented for each construction site.
- (4) **Erosion And Other Pollutant Control Requirements.** The erosion and sediment control plan required under sub. (3) shall include the following:
 - (A) **General Control Practice Standards.** All erosion control practices, locations and implementation measures required under Section 11.11(g), above.
 - (B) **Sediment Performance Standards.** In addition to the erosion and sediment control practices under section (A), the following erosion and sediment control practices shall be included in the erosion and sediment control plan:
 - (i) BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.
 - (ii) No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with the maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.
 - (iii) Notwithstanding subd. (i), if BMPs cannot be designed and implemented to meet the sediment performance standard, the erosion and sediment control plan shall include a written, site-specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.

- (C) **Preventive Measures.** The erosion and sediment control plan shall incorporate all of the following:
- (i) Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
 - (ii) Minimization of soil compaction and preservation of topsoil.
 - (iii) Minimization of land disturbing construction activity on slopes of 15 percent or more.
 - (iv) Development of spill prevention and response procedures.

(5) **Implementation.** The BMPs used to comply with this section shall be implemented as follows:

- (A) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities being in accordance with the erosion and sediment control plan developed in Section (j)(2) of this Ordinance.
- (B) Erosion and sediment control practices shall be maintained until final stabilization.
- (C) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
- (D) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
- (E) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.”

28. Section 11.11(i) of the Lodi Municipal Code is hereby renumbered as Section 11.11(k) and is hereby repealed and recreated to read as follows:

“(k) **Permitting Requirement, Procedures and Fees.**

- (1) **Permit Required.** No responsible party may commence a land disturbing construction activity subject to this ordinance without

receiving prior approval of an erosion and sediment control plan for the site and a permit from the Town.

- (2) **Permit Application And Fees.** The responsible party that will undertake a land disturbing construction activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of Section 11.01(j), and shall pay an application fee to the Town in the amount specified in Section (j)(4). By submitting an application, the applicant is authorizing the Town to enter the site to obtain information required for the review of the erosion and sediment control plan.

- (3) **Permit Application Review And Approval.** The Town shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:
 - (A) Within fifteen (15) business days of the receipt of a complete permit application, as required by sub. (2), the Town shall inform the applicant whether the application and erosion and sediment control plan are approved or disapproved based on the requirements of this ordinance.
 - (B) If the permit application and erosion and sediment control plan are approved, the Town shall issue the permit.
 - (C) If the permit application or erosion and sediment control plan is disapproved, the Town shall state in writing the reasons for disapproval.
 - (D) The Town may request additional information from the applicant. If additional information is submitted, the Town shall have fifteen (15) business days from the date the additional information is received to inform the applicant that the erosion and sediment control plan is either approved or disapproved.
 - (E) Failure by the Town to inform the permit applicant of a decision within fifteen (15) business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

- (4) **Surety Bond.** As a condition of approval and issuance of the permit, the Town may require the applicant to deposit a surety bond, irrevocable letter of credit or cash deposit to guarantee a good faith execution of the approved erosion and sediment control plan and any

permit conditions, in the amount of at least 110% of the estimated cost of implementation, maintenance, and removal of the approved erosion and control sediment plan. When the approved erosion and sediment control plan is not completed as approved, the Town may use the required security to complete all remaining work to achieve plan compliance.

- (5) **Permit Requirements.** All permits shall require the responsible party to:
- (A) Notify the Town within 48 hours of commencing any land disturbing construction activity.
 - (B) Notify the Town of completion of any BMPs within 14 days after their installation.
 - (C) Obtain permission in writing from the Town prior to any modification pursuant to sub (j)(3) of the erosion and sediment control plan.
 - (D) Install all BMPs as identified in the approved erosion and sediment control plan.
 - (E) Maintain all road drainage systems, storm water drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
 - (F) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site inspection log.
 - (G) Inspect the BMPs within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week. Make needed repairs and install additional BMPs as necessary, and document these activities in an inspection log that also includes the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.
 - (H) Allow the Town to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the erosion and sediment control plan. Keep a copy of the erosion and sediment control plan at the construction site.

- (6) **Permit Conditions.** Permits issued under this section may include conditions established by Town in addition to the requirements set forth in sub. (5), where needed to assure compliance with the performance standards in Section 11.11(g) and (h).
- (7) **Permit Duration.** Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Town may grant one or more extensions not to exceed 180 days cumulatively. The Town may require additional BMPs as a condition of an extension if they are necessary to meet the requirements of this ordinance.
- (8) **Maintenance.** The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.”

29. Section 11.11(j) of the Lodi Municipal Code is hereby renumbered as Section 11.11(l) and Section 11.11(l) is hereby renumbered as Section 11.11(n) and Section 11.11(j) is hereby created to read as follows:

“(j) **Erosion And Sediment Control Plan, Statement And Amendments.**

- (1) **Erosion And Sediment Control Plan Statement.** For each construction site identified under Section 11.11(d)(6), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Town. The erosion and sediment control plan statement shall briefly describe the site, the development schedule, and the BMPs that will be used to meet the requirements of the ordinance. A site map shall also accompany the erosion and sediment control plan statement.
- (2) **Erosion And Sediment Control Plan Requirements.**
 - (A) An erosion and sediment control plan shall be prepared and submitted to the Town.
 - (B) The erosion and sediment control plan shall be designed to meet the performance standards in Sections 11.01(g) and other requirements of this ordinance.
 - (C) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction

and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:

- (i) Name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.
- (ii) Description of the construction site and the nature of the land disturbing construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.
- (iii) Description of the intended sequence of major land disturbing construction activities for major portions of the construction site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
- (iv) Estimates of the total area of the construction site and the total area of the construction site that is expected to be disturbed by land disturbing construction activities.
- (v) Calculations to show the compliance with the performance standard in Section (h)(4)(B)(i).
- (vi) Existing data describing the surface soil as well as subsoils.
- (vii) Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.
- (viii) Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.

- (D) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than fifty (50) feet per inch and at a contour interval not to exceed two feet.
- (i) Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes and floodways shall also be shown.
 - (ii) Boundaries of the construction site.
 - (iii) Drainage patterns and approximate slopes anticipated after major grading activities.
 - (iv) Areas of soil disturbance.
 - (v) Location of major structural and non-structural controls identified in the erosion and sediment control plan.
 - (vi) Location of areas where stabilization BMPs will be employed.
 - (vii) Areas which will be vegetated following land disturbing construction activities.
 - (viii) Area(s) and location(s) of wetland on the construction site, and locations where storm water is discharged to a surface water or wetland within one-quarter mile downstream of the construction site.
 - (ix) Areas(s) used for infiltration of post-construction storm water runoff.
 - (x) An alphanumeric or equivalent grid overlying the entire construction site map.
- (E) Each erosion and sediment control plan shall include a description of appropriate control BMPs that will be installed and maintained at the construction site to prevent pollutants from reaching waters of the state. The erosion and sediment control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land

disturbing construction activity that the erosion and sediment control BMPs will be implemented. The description of erosion and sediment control BMPs shall include, when appropriate, the following minimum requirements:

- (i) Description of interim and permanent stabilization practices, including a BMP implementation schedule. The erosion and sediment control plan shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
 - (ii) Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the Town, structural measures shall be installed on upland soils.
 - (iii) Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
 - (iv) Trapping of sediment in channelized flow.
 - (v) Staging land disturbing construction activities to limit exposed soil areas subject to erosion.
 - (vi) Protection of downslope drainage inlets where they occur.
 - (vii) Minimization of tracking at all vehicle and equipment entry and exit locations of the construction site.
 - (viii) Clean up of off-site sediment deposits.
 - (ix) Proper disposal of building and waste material.
 - (x) Stabilization of drainage ways.
 - (xi) Installation of permanent stabilization practices as soon as possible after final grading.
 - (xii) Minimization of dust to the maximum extent practicable.
- (F) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

- (3) **Erosion And Sediment Control Plan Amendments.** The applicant shall amend the erosion and sediment control plan if any of the following occur:
- (A) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the erosion and sediment control plan.
 - (B) The actions required by the erosion and sediment control plan fail to reduce the impacts of pollutants carried by construction site runoff.
 - (C) The Town notifies the applicant of changes needed in the erosion and sediment control plan.

(4) **Fees For Engineering Review and Enforcement.**

- (A) Any person who submits an application for approval of an erosion control plan or issuance of a permit required by this Ordinance shall pay a fee equal to the Town's actual cost for engineering work by the Town Engineer and/or review agency incurred by the Town in connection with review of the erosion control plan, including any inspections required to assure compliance with the plan. The fee shall be paid prior to issuance of the permit if the engineering review fees have been billed by that time. If billed to the Town after issuance of the permit, the fee shall be paid within 30 days of its receipt by the applicant. Failure to pay such fee within 30 days shall be grounds for revocation of the permit, issuance of a stop work order, and/or charging the cost as a special charge against the property pursuant to Wis. Stats. § 66.0627, in the discretion of the Town Board.
- (B) If the Town Engineer and/or review agency is required to undertake any enforcement action under Section 11.11(m) of this Ordinance, all fees charged to the Town by the Engineer shall be collected by the Town from the person or persons violating the Ordinance, unless a Court of record expressly dismisses an action to enforce the Ordinance or finds that the Engineer's actions lacked a reasonable basis under this Ordinance. If unpaid by the responsible party within 30 days of submission, the Town shall enter the cost as a special charge against the property pursuant to Wis. Stats. § 66.0627.”

30. Section 11.11(l)(4) of the Lodi Municipal Code is hereby repealed.

31. Section 11.11(m) is hereby repealed and recreated to read as follows:

“(m) **Enforcement.**

- (1) The Town may post a stop work order if any of the following occurs:
 - (A) Land disturbing construction activity regulated under this ordinance is occurring without a permit.
 - (B) The erosion and sediment control plan is not being implemented in good faith.
 - (C) The conditions of the permit are not being met.
- (2) If the responsible party does not cease activity as required in a stop work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions, the Town may revoke the permit.
- (3) If the responsible party, where no permit has been issued or the permit has been revoked, does not cease the activity after being notified by the Town, or if a responsible party violates a stop work order posted under sub. (1), the Town may request the town attorney to obtain a cease and desist order in any court with jurisdiction.
- (4) The Town may retract the stop work order issued under sub. (1) or the permit revocation under sub. (2) at its discretion, or when the site has been brought back into compliance with the approved erosion and sediment control plan at the responsible party’s expense. The site must be brought back into compliance and approved by the Town Engineer within seven (7) days after the responsible party is notified of the violation, or the responsible party shall be considered in violation of the ordinance and citations issued for forfeitures until compliance is approved. Each day of non-compliance shall be considered a new violation of this ordinance.
- (5) After posting a stop work order under sub. (1), the Town may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The Town may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the Town, plus interest at the rate authorized by Town shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk-treasurer shall enter the amount due on the tax rolls as a special charge against the property pursuant to Wis. Stats. §66.0627.
- (6) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

- (7) **Performance of Work by the Town Engineer.** Where the Town Engineer determines that the holder of a permit issued pursuant to this Ordinance has failed to make any improvements or to follow practices as approved in the plan; or has failed to comply with the time schedule as included in the plan, the Town Engineer or a party designated by the Town Engineer may enter upon the land and perform the work or other operations necessary to bring the condition of said land into conformity with the requirements of the approved plan. The Town Engineer shall keep a detailed accounting of the costs and expenses of performing this work and these costs and expenses shall be entered on the tax roll as a special charge against the property pursuant to Wis. Stats. § 66.0627 and collected with any other taxes levied thereon for the year in which the work is completed.”

32. Section 11.11(k)(1) of the Lodi Municipal Code is hereby amended to read as follows:

- (1) **Penalties.**
Any person, either owner or occupant of the premises, who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this Ordinance shall be subject to a forfeiture of \$250, plus applicable assessments and court costs, in accordance with Section 1.21 of this Code. Each day a violation continues to occur shall constitute a separate offense.

The above and foregoing Ordinance was duly adopted at a regular meeting of the Town Board of the Town of Lodi held on the _____ day of _____, 2018.

TOWN OF LODI

Thomas J. Marx, Town Chairperson

James P. Brooks, Supervisor 1

James L. Bechen, Supervisor 2

Robert F. Benson, Supervisor 3

Jon Plumer, Supervisor 4

ATTEST:

April D. Goeske, Town Clerk-Treasurer

VOTE:

AYES: _____

NOES: _____

ADOPTED: _____

PUBLISHED: _____

4828-4851-3665, v. 1